



Appeal Decision

Site visit made on 7 March 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023

Appeal Ref: APP/J0405/W/22/3304970
Green Farm, The Green, Soulbury, LU7 0DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Knowles-Brown Properties Ltd against the decision of Buckinghamshire Council – Aylesbury Area.
 - The application Ref 21/03167/APP, dated 3 August 2021, was refused by notice dated 9 May 2022.
 - The development proposed is the demolition and replacement of Green Farm House with new dwelling and associated garage, conversion and extension of outbuilding to create new residential unit, recladding and re-roofing of storage barn to create workshop, erection of five detached dwellings with access taken from existing private access road, new private estate road, landscaping, drainage, ancillary highway and other works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have been advised by the Council that the reason for refusal erroneously refers to the Conservation Area Design Guide and should in fact refer to the Conservation Area Supplementary Planning Document 2011 (SPD). A copy of the SPD has since been provided by the Council. Given that the appellant refers to this oversight within their evidence, I am satisfied that no parties have been prejudiced.
3. The fourth reason for refusal states that there is insufficient detail to fully assess the impact of the proposal on retained trees or establish the appropriateness of the new planting. However, in their appeal statement, the Council indicates that a planning condition could have reasonably been imposed to secure the additional detail. Based on the available evidence, I have no reason to disagree. For these reasons and given that the Council is no longer contesting the fourth reason for refusal, I have identified the main issues accordingly.

Background and Main Issues

4. This appeal follows two earlier planning appeals, referred to within the appellant's submission as Appeal A and Appeal B. Notable differences between the earlier and current scheme include the overall number of units proposed together with the replacement of Green farmhouse and the conversion of the existing outbuildings to residential accommodation.

5. The main issues relevant to the appeal are:

- the effect of the proposed development on the character and appearance of the area, including whether the proposal would preserve or enhance the Soulbury Conservation Area (SCA);
- whether the proposed development would meet the needs of the local area with regard to the proposed housing mix; and,
- the effect of the proposed development on local infrastructure.

Reasons

6. The village of Soulbury lies within the Mursley – Soulbury Claylands Landscape Character Area (LCA) and is characterised by residential development of varied age and form. Whilst it is noted that there are several housing clusters located off the main through route including Andrews Close and Mount Pleasant, the pattern of development is generally linear in form.
7. The appeal site is located on the eastern side of High Road and comprises of an undeveloped, open field together with an existing dwelling and outbuildings which front onto High Road and The Green. The large part of the appeal site is located outside of the SCA however the site frontage including the existing buildings lie within the designated boundary. The site is bound by existing residential development to the north and south, whilst further residential development lies on the opposite side of the road. A public footpath crosses the appeal site which is identified on the proposed plans as being diverted.
8. The Green is a notable feature of Soulbury and, given its prominent central location provides a focal point to the village. The sense of openness in the vicinity of the appeal site derived from the set back of properties within their plots and verdant parcels of open space contribute to the overall significance of the SCA whilst the views of the rolling fields which frame the eastern side of the village creates a pleasant, rural setting to the SCA which also contributes positively to its significance.
9. The appeal scheme proposes the demolition and replacement of the former Green Farmhouse together with the conversion and extension of the red brick barn to a single dwelling. It is also proposed to reclad and re-roof the timber barn which would thereafter be absorbed within Plot 1 as a workshop. The submitted drawings indicate that the proposed replacement dwelling would be of a similar form and appearance to the existing dwelling, albeit notably larger whilst the external alterations to the existing outbuildings would largely retain their traditional agricultural character and appearance. More significantly, the replacement and conversion of the existing buildings would maintain their presence on The Green and their contribution to the village street scene. Accordingly, I find that the proposal in this regard would preserve and enhance the character and appearance of the SCA.
10. The proposal further includes the erection of five detached dwellings, all of which would be of a similar design and would be located outside of the SCA. The external finish would comprise of red brick, black horizontal feather boarding together with a pre-weathered clay plain tile roof. Whilst the proposed site layout and external materials would not be uncharacteristic of the area, the density of the development including the individual plot sizes would nevertheless be at odds with the existing pattern of development. The

discordancy would be further exacerbated by the scale and appearance of the proposed dwellings, which by virtue of the complex roof structures and multiple projections of disjointed heights would appear overly bulky and out of character with the nearby built form within the SCA. For these reasons, the proposed development would not be in keeping with the existing form of the settlement nor would it respect the local character and distinctiveness.

11. Consequently, and notwithstanding the extensive planting scheme, I find that the introduction of built form as detailed on the submitted drawings would read an incongruous and obtrusive form of development. Moreover, the permanent loss of open fields would enclose the SCA and erode its rural setting particularly when seen from the public right of way. The significant expanse of hard surfacing and inevitable domestic paraphernalia would further exacerbate the undesirable urbanising effect of the proposal, consolidating the harm identified.
12. In coming to this view, I recognise that the appeal site is not located within the Green Belt or in an Area of Outstanding Natural Beauty. I am also mindful that the Inspectors for Appeal A¹ and Appeal B² both concluded that the level of landscape harm would not be significant. Indeed, I share this view in so far as the proposed development would be seen in the context of the existing settlement when viewed from the wider area and would retain a degree of spaciousness due to the spacing, central green space and set back of Plots 1 and 2. Nevertheless, this does not address the harm arising from the discordant scale or the permanent loss of open fields.
13. Vehicular and pedestrian access would be provided off High Road, via the existing gravelled accesses across The Green. The Council's reason for refusal contends that the proposed development would result in the introduction of increased hard surfacing and formal entrances which would be at odds with the existing low-key access points. However, the submitted drawing indicates that the road width would be maintained as existing and a loose surfacing material implemented. As such, I am not persuaded that the appearance of the proposed access points would be overly engineered or indeed too dissimilar to the existing access tracks which I observed on my site visit. As such, in this regard I find that the proposal would not compromise the character and appearance of The Green.
14. The reason for refusal also alleges that light pollution arising from the proposed development would detract from the character and appearance of the area. Whilst mindful of the rural setting, it is equally acknowledged that the site is not remote from existing development. Based on the evidence before me and given the scale and location of the proposed development, I am not convinced that associated domestic lighting would blur the distinction between the urban and rural area or indeed pollute the night sky. As such, I find the proposal to accord with Local Plan Policies NE4 and NE5 of the Vale of Aylesbury Local Plan 2013-2033 (Local Plan).
15. My attention has been drawn to several planning decisions which the appellant contends are of a similar scale and location to the appeal proposal. With regard to Winscott Farm³, whilst it is noted that this was approved despite a landscape objection, I am told that there were site specific circumstances and a previous

¹ APP/J0405/W/18/3194652

² APP/J0405/W/19/3242624

³ 19/04199/APP

planning permission which justified the approval. Turning to Oving Road⁴, this appeal was determined in the context of Paragraph 11d) of the National Planning Policy Framework (the Framework). Therefore, different policy considerations applied. In any case, the referenced sites are not located within proximity of the appeal site and therefore, they do not form part of the character and appearance of the area in which the development would be appreciated. Consequently, I give these examples limited weight in my considerations.

16. For the reasons outlined, the proposed development would erode the rural character and spaciousness of the village and enclose the SCA thus failing to preserve or enhance the setting of the heritage asset. The appeal proposal would therefore have a negative effect on the significance of a designated heritage asset and would result in less than substantial harm in the Framework's terms given the small-scale nature of the proposal. Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset the Framework indicates that this harm should be weighed against the public benefits of the proposal.
17. I do not dispute that the proposal would contribute to housing supply, including the provision of off-site affordable housing within the area. However, I am also mindful that whilst declining, the Council is able to demonstrate a 5.2 year supply of housing as required by the Framework. It therefore seems to me that the proposal would make no meaningful difference in this regard and thus I attribute this moderate weight. I also recognise that the proposal would support local services and facilities and would also contribute to the local economy. However, given the scale of the proposed development, I find that the benefits would be relatively limited. Although the financial contributions would enhance existing facilities within the village, the contribution is required to ensure that these facilities can accommodate an increased number of dwellings. I therefore find this to be a neutral factor.
18. I attribute great weight and importance to the conservation of the heritage asset. Whilst acknowledging the public benefits, including the moderate heritage benefit, for the reasons outlined, I am not persuaded that they would be sufficient to outweigh the harm identified.
19. For these reasons, I find that the proposed development would harm the character and appearance of the area and would also fail to preserve or enhance the setting of the SCA. As such, the proposal is contrary to Local Plan Policies D4, BE1 and BE2. Amongst other aspects, these policies seek to ensure that development proposals safeguard heritage values, local character and distinctiveness through the delivery of high-quality design which is in keeping with the existing form of the settlement in terms of scale, spacing and plot size. The proposal is also inconsistent with the Conservation Areas SPD which seeks to preserve or enhance the character and appearance of designated heritage assets. For the same reasons, the proposal is inconsistent with the design objectives of the Framework and the National Design Guide.
20. The Council's reason for refusal refers to Local Plan Policies S1, S2 and S3. These policies relate to strategic matters including the principle of sustainable development, the overall growth strategy for the area and the settlement hierarchy. My attention has not been drawn to any wording therein which

⁴ APP/J0405/W/18/3195021

relates to character and appearance. Therefore, the aforementioned policies are not determinative to this main issue.

Housing Mix

21. Local Plan Policy H6a states that new residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities. Table 102 of the Local Plan identifies the proportion of housing needed over the plan period and confirms that the principal need is for houses, in particular 3 bed homes (52%). The identified need for 4 and 5 beds homes is 21% and 6.5% respectively. Although not especially up to date, based on the available evidence, I have no reason to conclude that the figures in respect of larger homes have changed significantly. Whilst the reasoned justification indicates that these figures are a guide rather than a requirement, it clearly sets out the expectation that any deviation is justified on the basis of specific circumstances or market evidence.
22. The appeal scheme proposes the provision of one 3 bed, one 4 bed and five 5 bed houses. I acknowledge that the proposed development is a relatively small-scale development and would contribute to the supply of family housing in the area. I also recognise that the proposal includes the provision of a single storey, 3 bed unit. However, unlike the appeal decision⁵ relied upon by the appellant, there is a significant imbalance in the housing mix proposed, with a heavy bias towards 5 bed units.
23. In the absence of any substantive evidence to justify a variation of the proportions detailed within Policy H6a, I cannot be certain that this would not distort the housing need proportions. Therefore, notwithstanding the Council's Housing Delivery figures as put to me by the appellant, I find the proposed housing mix is contrary to the objectives of Local Plan Policy H6a. The proposal would undermine the Framework's strategic desire to deliver a sufficient supply of homes capable of fulfilling various housing needs.

Local Infrastructure

24. The Planning Practice Guidance explains that planning obligations may only constitute a reason for granting planning permission where they are necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably related in scale and kind to the development. This is consistent with the statutory tests set out in Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010 (as amended) and Paragraph 57 of the Framework.
25. There was no formal mechanism before the Council to secure financial contributions when the planning application was determined. However, a Section 106 Planning Agreement in the form of a signed Unilateral Undertaking⁶ (UU) accompanies the appeal. This agreement commits the developer to pay £266, 848 towards off-site affordable housing provision and £32, 875 towards sports and leisure facilities.
26. Policy H1 of the Local Plan requires a minimum of 25% affordable homes to be provided on sites of 0.3 hectares or more. The appellant submits that the site

⁵ APP/J0405/W/21/3285501

⁶ Unilateral Undertaking dated 21 February 2023

would be unattractive to Registered Housing Providers and thus proposes a financial contribution in lieu of on-site affordable housing provision. This approach is not contested by the Council in this instance. Based on the evidence before me, I have no reason to disagree with this approach or indeed conclude that the stated sum would be unacceptable. The third schedule of the UU sets out a financial commitment to the modernisation or replacement of Soulbury Parish Hall or Millennium Green, including equipped play provision. From the evidence before me, I consider that such a contribution would be necessary to ensure that there would be suitable sports and leisure provision for the future occupants of the development. For these reasons, I am satisfied that the financial sums set out within the UU would satisfy the statutory tests.

27. Consistent with the consultation response from the Education Department, the fourth schedule indicates a financial contribution of £56, 959 towards the provision of additional secondary school facilities. Nevertheless, no substantive evidence had been provided by the Council to justify this contribution. Therefore, I cannot be certain that this commitment would be necessary to make the development acceptable.
28. In concluding this matter, I find that the UU makes appropriate provision for the delivery of the necessary infrastructure to support the development. As such, the proposal accords with Policies H1, I2 and I3 of the Local Plan. Amongst other aspects, these policies seek to secure adequate provision of sports and recreation facilities, community facilities and affordable housing. The proposal would also accord with the infrastructure and affordable housing objectives of the Framework.

Other Matters

29. Whilst not reflected within the reasons for refusal, it is noted that the highway authority response refers to the lack of footway on the eastern side of High Road across The Green to connect the informal pedestrian crossing to the southern access track. My attention has been drawn by the appellant to an earlier appeal decision⁷ in which the Inspector concluded that a path over The Green would not be necessary. Whilst acknowledging that this appeal concerned a separate consenting regime, I have no reason to disagree with the conclusions therein, particularly as the proposal relates to a lesser number of houses.
30. In reaching my decision, I recognise that the Local Plan accepts that small scale development can be accommodated within small villages. Indeed, it is noted that the Council, in determining the planning application did not object to the principle of development. I also acknowledge that there were no fundamental objections to the diversion of the public right of way and that the Parish Council offered their support. Nevertheless, the lack of objection does not make the development acceptable.
31. A number of errors within the delegated report have been highlighted by the appellant. Whilst I accept that these are unfortunate, they are not so fundamental that they undermine the Council's reasoning or overall decision.

⁷ COM/3231832

Conclusion

32. In concluding this appeal, having regard to the development plan as a whole and all other relevant material considerations, including the Framework, the appeal is dismissed.

H Wilkinson

INSPECTOR